

REMARKS

The Office examined and rejected claims 1-7. With this paper the claims are unchanged. Applicant requests reconsideration on the following grounds.

Rejections under 35 U.S.C. §102

In section 4 of the Office action, claims 1-7 are rejected under 35 U.S.C. §103 as being unpatentable over Ogushi et al. (U.S. Pub. No. 2002/0029086) in view of Gronemeyer et al. (U.S. Pat. No. 6,363,359).

Claim 1--the only independent claim of the application--recites that the invention provides a system for remote configuration monitoring of an *industrial control system*, and that the system comprises a device identifier for determining components of an automation or control device included in the industrial control system by periodically *querying* the device to obtain from the device information identifying at least some of its component hardware, software and firmware. The Office action asserts (in section 4) that Ogushi disclose such a querying, citing paragraph 32.

Applicant respectfully submits that Ogushi does not in fact teach the querying limitation recited in claim 1, from which all of the other claims depend. Paragraph 32 is in full as follows:

The host computer 108 on the vendor 101 side periodically executes processing represented by the flow chart in FIG. 3 to monitor the operating states of the industrial equipments 106 of the respective factories 102 to 104.

As explained in paragraphs 31-38, the flow chart in Fig. 3 describes a vendor-side computer 108 receiving from a factory-side computer 107 status information for monitoring operating states of equipment in a factory in order to

correct problems. (The operating states are different possible error states in which equipment can exist, and also a normal state.) There is simply no teaching or suggestion in Ogushi of periodically *querying* a device to obtain from the device information identifying at least some of its component hardware, software and firmware. All that is disclosed is a vendor-side computer receiving in effect error messages from different equipment at the factory. Not once does Ogushi teach or suggest the equipment indicating configuration information (i.e. its component hardware, firmware, and software).

Further, the Office action concedes that Ogushi fails to teach a device configuration manager as in claim 1 (i.e. responsive to component identifications in a device database, and further responsive to available device components in a database of available device components, for comparing installed device components with the available device components and for providing an offer to upgrade installed device components). The Office action therefore relies on Gronemeyer for such a teaching. As made note of in response to the previous Office action, and the assertions of the present Office action notwithstanding, Gronemeyer nowhere teaches having a device configuration manager compare a database indicating component identifications for an automation and control device with a database of available upgrades as the basis for making an offer to upgrade installed device components. This is because Gronemeyer, in contrast to the invention as in claim 1, does not teach configuration monitoring, but instead teaches only obtaining from a client information about equipment/software used by the client in order to make a sales pitch. Since Gronemeyer does not teach configuration monitoring, it nowhere teaches keeping a database of equipment in use by an

automation or control device--a database that would only be kept in case of performing configuration monitoring--and so does not teach comparing such a database with a database of available upgrades. (In other words, even if Gronemeyer arguably teaches a data store of available upgrades, the server of Gronemeyer is not performing configuration monitoring, and so it can throw away the information it obtains from a client once it makes its sales pitch to the client.)

Further, applicant respectfully submits that the combination made in the Office action is without proper grounds. To combine references, as set out in the MPEP at 706.02(j), the Examiner must establish a *prima facie* case of obviousness, which requires first, that there be "some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings," second, that "there must be a reasonable expectation of success," and third, that the combination made in the Office "teach or suggest all the claim limitations." The excuse given in the Office action for "incorporat[ing] the system of Gronemeyer with the remote configuration management device of Ogushi"--that doing so "would provide for offering the goods or services for sale based on an automatic detection of the client's system configuration"--is merely a statement that such an incorporating would result in the function provided by the claimed invention. *However, the showing required is that the incorporating be suggested or motivated by the prior art, not that it would result in the function (or a function comparable to the function) of the claimed invention.*

Accordingly, applicant respectfully requests that the rejections under 35 USC §103 of claims 1-7 be reconsidered and withdrawn.

Conclusion

For all the foregoing reasons it is believed that claims 1-7 are in condition for allowance and their passage to issue is earnestly solicited.

Respectfully submitted,

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Date



James A. Retter

Registration No. 41,266

WARE, FRESSOLA, VAN DER SLUYS  
& ADOLPHSON LLP  
755 Main Street, P.O. Box 224  
Monroe, CT 06468-0224

tel: (203) 261-1234  
Cust. No.: 004955